

BOROUGH OF TOTOWA

PASSAIC COUNTY, NEW JERSEY



BOARD OF
ADJUSTMENT

MUNICIPAL BUILDING
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BOARD OF ADJUSTMENT MINUTES OF JANUARY 9, 2019

The January 9, 2019 regular and reorganization meeting of the Borough of Totowa Board of Adjustment was held at the Municipal Building. Chairman Fierro called the meeting to order at 7:05 p.m.; followed by the Flag Salute. Attorney Briigliodoro read the Open Public Meetings Act.

The 2019 Oaths of Office were received from Municipal Clerk Wassel for Chairman Fierro for a 4-year term and Alternate Masi for a 2-year term. All Commissioners were sworn in.

Nomination for Board Chairman was requested. A motion to appoint Fierro as Chairman was made by Vice Chairman Krautheim and seconded by Commissioner Bavazzano. There being no other nominations from the floor, the nomination for Chairman was closed. On a roll call vote all members present voted in the affirmative and congratulations were extended to Chairman Fierro.

Nomination for Board Vice Chairman was requested. A motion to appoint John Krautheim as Vice Chairman was made by Commissioner Nash and seconded by Commissioner Bavazzano. There being no other nominations from the floor, the nomination for Vice Chairman was closed. On a roll call vote all members present voted in the affirmative and congratulations were extended to Vice Chairman Krautheim.

Nomination for Secretary was requested. A motion to appoint Pam Steinhilber as Secretary was made by Commissioner Patten and seconded by Alternate Korsakoff. There being no other nominations from the floor, the nomination for Secretary was closed. On a roll call vote all members present voted in the affirmative and congratulations were extended to Secretary Steinhilber.

Nomination for Board Attorney was requested. A motion to appoint Rich Briigliodoro as temporary Attorney was made by Commissioner D'Ambrosio and seconded by Commissioner Patten. There being no other nominations from the floor, the nomination for Attorney was closed. On a roll call vote all members present voted in the affirmative and congratulations were extended to Attorney Briigliodoro.

Nomination for Board Engineer was requested. A motion to appoint Alaimo Engineering, Mike Cristaldi as Board Engineer was made by Alternative Masi and

seconded by Commissioner Patten. There being no other nominations from the floor, the nomination for Board Engineer was closed. On a roll call vote all members present voted in the affirmative and congratulations were extended to Board Engineer Murphy.

A motion was made by Commissioner Bavazzanno and seconded by Commissioner Nash that the Board of Adjustment will meet the second Wednesday of every month at 7:00 p.m. in the Council Chambers for the year 2019 through January 2020. On a roll call vote, all members present voted in the affirmative.

The reorganization meeting was over and the regular meeting of the Board of Adjustment was called to order by Chairman Fierro.

A motion to accept the minutes of the December 12, 2018 meeting was made by Commissioner D'Ambrosio and seconded by Alternate Masi. On a roll call vote all Commissioners present voted in the affirmative

3rd CASE: S & S AT LACKAWANNA LLC
75 LACKAWANNA AVE, BLOCK 177.01, LOT 8

Attorney Brigliadoro received a letter from the Applicant dated January 8, 2019 asking for the case to be carried to our February 13th, 2019 meeting. Not further noticed needed.

The Board took a break at 7:16 pm and resumed at 7:25 pm with a roll call taken.

1ST CASE: ANITRA DAKAKE
23 COOLIDGE AVE, BLOCK 102, LOT 21

Attorney Brigliadoro reminds everyone that this is a continuous hearing of last month. Engineer Thomas G. Stearns III, was sworn in by Attorney Brigliadoro. Engineer Cristaldi questions he square footage of the garage on the site plan, which is 801 square feet does not match the drainage calculations of 700 square feet. Attorney Brigliadoro states that plans need to be filed to the building department 10 days prior to the Board of Adjustment meeting so the plans can be reviewed by the town and the Engineer. Attorney Brigliadoro is recommending carrying this to our next meeting, February 13, 2019, so the plans can be reviewed. There will be no further noticed needed.

2ND CASE: GORDANA OLDJA & MILUN KONATAR
127 HUDSON AVE, BLOCK 51, LOT 5.01

Attorney Brigliadoro states there was a legal issue from August 16, 1966, the BOA had a public hearing for 127 Hudson Avenue and the Board denied the application for the subdivision. Exhibit A-1 is a letter dated January 7, 2019. Attorneys John Sarto and Raymond Redding are representing the Applicant. The Attorneys presented a legal memorandum dated January 7, 2019 regarding res judicata. The Attorneys looked at the minutes from the 1966 meeting and compared it to the current application and they see

many differences from the 1966 application to the present. The use of the property is different, the dimensions are different and the lot areas. They feel with these changes from the 1966 application which was denied does not reflect res judicata. Attorney Brigliadoro states the differences from the 1966 application involved a 2 family home and the new application is for a single family home. Attorney Brigliadoro recommends to proceed at this time and allow the Applicant to plea there case and at the end the Board can determine if res judicata applies.

Attorney Redding explains the application for a minor subdivision and is a twofold application, if granted to contract a single family home. Applicants Oldja and Konator are not the owners of the property but they do have permission from the owner to proceed.

Engineer Patrick McClellan was sworn in by Attorney Brigliadoro and is considered an expert in his field by the Board. This application is for a minor subdivision variance site plan submitted to the board. The property contains almost 15 thousand subdivision property into two. There are a few issues with the property: the existing structure on the property makes this addition off in proportion and it is a corner lot. There are 3 variances that need to get approved: the first is lot area where 5.02 is permitted and 5,764 is being proposed, variance relief is needed for lot width where 57.67 is being proposed and 70' is required and last the F.A.R. is proposed at 53.42% where 40% is required. The F.A.R. on the plan does not include the garage, when that is added the F.A.R. goes to 60.8%. There are 3 existing conditions that are non-conforming. The first is front yard setback 21'6" is proposed where 25' is required, second is minimum side yard for corner lot 20.1' is proposed where 25' is required and last is rear yard setback 17.8' is proposed where 20' is required. The property is 40 ½' x 44 ½' single families dwelling with no setback variances, there will be an increase in impervious cover with a drywell system to be added. Engineer McClellan discusses Engineer Cristaldi's report dated December 11, 2018. The zoning chart to be revised and to reflect correct footnote numbers. Applicant will address the comment on storm water system will be submitted before the building permit. The Applicant will address the condition for detailed plot plan. Commissioner D'Ambrosio would like to clarify if the new property is on the corner lot. Engineer McClellan states the new property is one in from the existing home on the corner. Commissioner Patten would like to know what the rear yard setback would be if passed. Enigneer McClellan states from the new building to the new property line would be 4.2'.

Architect Yogush Mistry was sworn in by Attorney Brigliadoro and is considered and expert in his field by the Board. Exhibit A-2 is a 3D color rendering of the new home. The first floor will consist of a 2 car garage, living room, dining room, kitchen, family room, and bath room totaling 1,390 square feet. The second room consists of 4 bedrooms and bathroom totaling 1,689 square feet. There will also be an unfinished basement. The exterior will be a mix of stone and siding with accent trim and panels. Chairman Fierro asked about parking, there will be a 2 car garage and space for 2 cars in the driveway. Engineer McClellan clarifies the distance from existing building to the house, 5' on one side and 4' on the other so there will be 9' between buildings.

Professional Planner Ken Ochab was sworn in by Attorney Brigliadoro and is considered an expert in his field by the Board. Exhibit A-3 is photos of the site and surrounding area taken by Mr. Ochad in early December 2018. Exhibit A-4 is a color version tax map. The first photo on Exhibit A-3 is the existing home on the property, the photo on the upper left is the vacant area that exists. The photo at the lower left is the adjacent home to the left of Hudson which is 50' in width and 100' in depth. The photo on the lower right is the house directly across from the corner lot on Hudson Ave. The photo on the second page is a single family ranch home. The photo on the upper right is the corner lot on Chamberlain and Hudson. The 2 photos on the bottom the left is the existing rear corner house and the right is the continuation as you look down the back of the property. The applicant is proposing a 2 lot subdivision of a 15 thousand square foot lot size. The corner lot is 9,228 square feet and the new lot will be 5,764 square feet. There are no new variances for the corner lot. There are 3 pre-existing conditions on the corner lot. The new lot being created needs variance for lot area, lot width, and C-variance; also the F.A.R. is required .4 and, 6 is where they Applicant is at which is the D-variance. There is sufficient off street parking. The tax map dictates the property in red, lot 5.01; the properties under 7 thousand square feet and 70' in lot width are noted with a blue star. The negative criteria are there is no substantial detriment, they are consistent with the neighborhood pattern and there is no impairment to the zone plan. Commissioner D'Ambrosio would like to know what the plan is for drainage. Engineer McClellan states there is impervious coverage and they are adding 3 drywells to comply with the 25 year storm ordinance. Commissioner Patten asked the rear of the property on new proposed house; is there an entry to the basement, there is no access on the exterior to enter the basement, only entrance is within the home. Commissioner Patten also asked about the tree in the rear yard is that being touched, Mr. Ochab states the tree is on the adjacent property in the rear.

At this time the Board opens the meeting to the public.

Milena VanWyck & Jason VanWyck reside at 121 Hudson Ave, were sworn in by Attorney Brigliadoro. They state the tree is part of the Applicants property. The current home is a 2 family home and a CO was never obtained by the current home owner. The drywell and water shed has a 3 ½' to 4' retaining wall that is cracking which they have addressed with the current home owner. There yard is always wet. Engineer McClellan states the new development does a better job at what is on the property, there will be 3 drywells with the new home this will actually help with the water issue. Attorney Brigliadoro states this Board cannot determine whether this is a 1 or 2 family home. Engineer McClellan states there is 20' between their home and the new home. Planner Ochab states the style of the new home fits with the existing neighborhood. The photo on the second page of Exhibit A-3 shows the tree and it will remain.

Ronald Kuyl, resides at 192 Gordan Ave, was sworn in by Attorney Brigliadoro. The tree is on the applicant's property, the tree is dying and needs to come down or it will fall on his home.

Gerald A. Sirocka, resides at 186 Gordon Ave, was sworn in by Attorney Briigliodoro. His main concern is water, he lived behind the existing home and there is clay in the soil. He feels the wells are not going to be able to handle all the water. Engineer McClellan states they may need to have all the drywells in the front with liter pipes. The drywells will now be closer to the street and overage will be directed in the street instead of the properties. This could be a good modification to the application for the neighbors. Engineer Cristaldi states directing the water out to the road is the best idea. Mr. Sirocka also feels the house is too large for the property ad would like to know how close it will be to the back of his home. Engineer McClellan states it will be 25 1/2' from property line to the back face of the house.

George Khoury, resides at 105 Hudson Ave, was sworn in by Attorney Briigliodoro. Mr. Khoury feels the new home is too big for the lot. The water table is a concern, will there be x-rays of soil testing. Engineer McClellan states at this time no soil testing has been done but it will be if approved. Mr. Khoury also is concerned about sink holes, Engineer McClellan responds, if the subdivision is approved that type of investigation will be done, and if approved the Board would usually make that a condition upon approval. Mr. Khoury has had a licensed plumber do work and was told by him that the waste water is not rated for what is currently being used and the main pipe is 3 to 4 inches. Engineer McClellan is concerned because those pipes should be 8" in diameter and maybe the Borough Engineer could address that.

Donald Cerone, resides at 108 Hudson Ave, was sworn in by Attorney Briigliodoro. Mr. Cerone's concerns are the water and that the house is too large for the lot.

Mark Bennett, resides at 107 Hudson Ave, was sworn in by Attorney Briigliodoro. Mr. Bennett stresses that water is an issue, but the size of new home is too large and would like to see a home similar to the homes in the neighborhood.

At this point the Board closes the public portion of the meeting. Amotion was made by Commissioner Nash and seconded by Commissioner D'Ambrosio.

The Board takes a recess at 9:12 pm and resumes at 9:17 pm with a roll call taken.

Attorney Redding states there is no more testimony at this time. Commissioner D'Ambrosio would like to see 4 drywells instead of 3, Engineer McClellan states they will comply. Engineer Cristaldi agrees to the additional drywell and adds that will help eliminate that much more water to drain off of the neighborhood properties. Engineer McClellan states soil testing needs to be done if there is better material in the ground they will proceed to do what they can to correct the issue. Commissioner Bavazzano would like to see if a reduction in the size of the home is a consideration by the Applicant, preferably reducing the F.A.R. Attorney Redding would like to speak with the applicant.

The Board takes a recess at 9:23 pm and resumes at 9:27 pm with a roll call taken.

Attorney Redding would like to amend the application to 2,900 square feet which is not inclusive of the garage. Attorney Redding also notes that the basement will not be living space. Attorney Briigliodoro states the Board needs to vote at this time whether res judicata applies to this application.

A motion was made by Commissioner D'Ambrosio and seconded by Commissioner Patten that the applications are different and res judicata does not apply to this current application. A vote was taken 8-0.

Attorney Briigliodoro reviews Alaimo's report dated December 11, 2018.

1. Pre-existing non-conformities
 - a. Front yard setbacks
 - b. Side yard setbacks
 - c. Rear yard setbacks
2. Lot Area
3. Lot Width
4. D-4 variance for F.A.R.-with the reduced size the new F.A.R. is 57.7%

A motion was made by Commissioner D'Ambrosio to grant the Application with the condition of the additional well, no living space in the basement, and smaller F.A.R. and was seconded by Commissioner Patten. Application was passed 5-2 at 9:38 pm.

RESOLUTIONS:

1ST CASE: GORDANA OLDJA
35 CAROLL PLACE, BLOCK 40, LOT 7 & 18

Application was approved for a minor subdivision approval along with variance relief for lot area, lot depth, front yard setback, rear yard setback, and floor area ratio.

A motion to adjourn the meeting was made by Alternate Masi and seconded by Commissioner Nash. The meeting was adjourned at 9:41 p.m.

Respectfully submitted,
Pam Steinhilber, Secretary